

**Chapter 3:    PHYSICAL, EMOTIONAL AND MENTAL COMPETENCE TO  
OPERATE A MOTOR VEHICLE**

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**SUMMARY:** These rules describe the standards to be used by the Secretary of State in determining physical, emotional and mental competence of persons to operate motor vehicles. The rules establish a reporting system which requires persons to submit medical information to the Secretary of State. Persons found incompetent to operate a motor vehicle in accordance with procedures outlined in these rules may have their driving privileges suspended, revoked or restricted.

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1.       Standards

- A.       Secretary of State. The Secretary of State shall determine the physical, emotional, and mental competence of a person to operate a motor vehicle with the advice of the Medical Advisory Board and on the basis of the Functional Ability Profiles.
- B.       Functional Ability Profiles. Standards to determine the competence of a person to operate a motor vehicle are those contained in the "Functional Ability Profiles" adopted by the Secretary of State with the assistance of the Medical Advisory Board.

2.       Reporting System

- A.       Medical conditions requiring report. Conditions for which a person is required to submit a report to the Secretary of State include, but are not limited to, neurological, cardiovascular, metabolic, musculoskeletal, visual, emotional and psychiatric and substance abuse.
- B.       Sources of information. Sources of information concerning medical conditions include, but are not limited to:
  - 1.       Permits, licenses, renewal applications, and accident reports;
  - 2.       Written reports from family, physicians, law enforcement personnel and other government agencies, and;
  - 3.       Signed statements from citizens.

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- C. Nature of medical report. Upon receipt of information concerning the existence of a medical condition for which a report is required or which may affect a person's ability to operate a motor vehicle, the Secretary of State shall request the person involved to submit a medical report from a physician or from other competent treatment personnel, who may be specified.
1. To be acceptable, the medical report must be made on forms supplied or approved by the Secretary of State and must contain the physician's or other treatment personnel's diagnosis of the patient's condition(s) and any prescribed medication(s).
  2. The Secretary of State may require an individual to certify in writing the date of the person's last seizure.
- D. Action by the Secretary of State
1. Upon receipt of a medical report indicating that a person is competent to operate a motor vehicle, the Secretary of State may approve the person's competence to operate a motor vehicle, with or without restrictions, taking into consideration the safety of the public and the welfare of the driver.
  2. Upon receipt of a medical report indicating that a person is not competent to operate a motor vehicle, or upon the failure or refusal of a person to submit the requested information, the Secretary of State shall follow one or more of the following procedures:
    - a. If, from records or other sufficient evidence, the Secretary of State has cause to believe that a person is not physically, emotionally, or mentally competent to operate a motor vehicle, the Secretary of State may:
      - i. Obtain the advice of any member of the Medical Advisory Board or the Board collectively. The Board or any member may formulate advice from the existing records and reports or may request that an examination and report be made by the Board or any other qualified person so designated. The licensed driver or applicant may present a written report from a physician of the person's choice to the Board or the member reviewing the matter and such report must be given due consideration. Members of the Board and other persons making examinations and reports are not liable for their opinions and recommendations pursuant to this subsection.

- ii. Require a person to submit to a driving evaluation. Upon the conclusion of such an evaluation, the Secretary of State shall take action as may be appropriate. The Secretary of State may suspend the license of such person, allow the person to retain a license, or issue a license subject to any conditions or restrictions deemed advisable, having in mind the safety of the public and the person.
  - iii. After hearing, suspend any certificate of registration, operator's license, operating privileges, or privilege to apply for and obtain a license in the State of Maine.
  - iv. Without preliminary hearing, suspend any certificate of registration or any operator's license, operating privilege, or privilege to apply for and obtain a license in the State of Maine if the Secretary of State determines that the person's continued operation of a motor vehicle presents a potential danger to the person or other persons or property. The Secretary of State shall notify the person that a hearing will be provided without undue delay.
- E. Confidentiality of reports. Reports received under this rule are confidential in accordance with the Maine Motor Vehicle Statutes.

## FUNCTIONAL ABILITY PROFILES

Functional ability to operate a vehicle safely may be affected by a wide range of physical, mental or emotional impairments. To simplify reporting and to make possible a comparison of relative risks and limitations, the Medical Advisory Board has developed Functional Ability Profiles for ten categories, with multiple levels under each profile. Each profile follows the same format:

1. **No diagnosed condition.** This section is used for a patient who has indicated to the Bureau of Motor Vehicles a problem for which no evidence is found, or for which no ongoing condition can be identified. For example, this category might apply to a person with a heart murmur as a young child who indicates heart trouble, or to a teenager who fainted in gym class once on a hot day who indicates blackouts.
2. **Condition, fully recovered/compensated.** This category indicates a history of a condition which has been resolved or which does not warrant review. Guidance for the use of this section is given in each profile.

3. **Active impairment.**

- a. **Minimal.** This section may call for periodic review because of an ongoing condition which could deteriorate.
- b. **Mild.** This section deals with conditions which may impair driving but which are controlled so that a person can still operate a motor vehicle safely. Reviews are more frequent than in (a).
- c. **Moderate.** This section identifies impairment which often precludes driving, but for which there is the potential for recovery to the point of allowing safe operation of a motor vehicle.
- d. **Severe.** This section identifies permanent conditions with little or no potential for improvement and which preclude safe operation of a motor vehicle.

4. **Condition under investigation.** This section is for newly identified conditions. Follow-up reports will place condition in its proper part of section 3.

In all cases, periodic reviews may place the driver being evaluated in a higher or lower section as the condition improves or deteriorates.